



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 174027

PRELIMINARY RECITALS

On May 3, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability regarding Medical Assistance. The hearing was held on June 7, 2016, by telephone.

The issue for determination is whether a prior authorization request for Petitioner for Medicaid payment for a bilateral breast reduction meets the standards necessary for Medicaid payment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] |
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED], MD
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner's provider, [REDACTED], filed a prior authorization (PA) request for Medicaid payment for a bilateral breast reduction. The request is dated March 22, 2016. The Department denied the request on April 18, 2016.
3. Petitioner is 5'11" tall and weighs 206 pounds as of March 1, 2016 clinical notes. Her body mass index is noted in those records to be 28.74 and her body surface area is noted to be 2.16 square meters. The PA request indicates that 550-650 grams of tissue is to be removed from each breast.
4. Under the Schnur criteria, a person with a body surface area of 2.16 must require the removal of at least 819 grams of tissue from each breast. The proposal here would be the amount of tissue for a body surface area of 1.925 to 2.049. (Among other sources the Schnur scale may be found at <http://blue.regence.com/trgmedpol/surgery/sur60.pdf>.)

DISCUSSION

Petitioner requested prior authorization for bilateral breast reduction surgery. To obtain this service she must show the reduction is medically necessary. A service is medically necessary if it is "[r]equired to prevent, identify or treat a recipient's illness, injury or disability..." A service is not medically necessary if it is provided purely for cosmetic reasons. Wis. Admin. Code § DHS 101.03(96m). To help determine whether a service is medically necessary, the department has issued guidelines found in the *Prior Authorization Guidelines Manual*. The *Prior Authorization Guidelines Manual*, § 117.006.02, require the following for approval of breast reduction surgery:

- 1) Documentation that conservative treatment has been unsuccessful in alleviating clinical symptoms with a trial period of at least 3 month; *and*
- 2) An appropriate amount of breast tissue must be removed from each breast. (Determine by using criteria set forth by P.L. Schnur, MD, et al MS Reduction Mammoplasty: Costmetic [sic] or Reconstructive Procedure? Ann Plast Surg 1991 27:232-237.); *and*
- 3) Documentation of at least 4 medical signs/symptoms of macromastia, such as: postural backache (ICD-0 724.5, 781.9), upper back and neck pain (ICD-9 724.1, 723.1), chronic breast pain due to breasts (ICD-9: 611.71), "true hypertrophy" (ICD-9 611.1), intertrigo (severe and intractable inflammation and/or infection in the fold beneath the breasts) (ICD-9 695.89), shoulder grooving and kyphosis (ICD-9 737.10), gross asymmetry of the breasts or absence of a breast, resulting from resection of the opposite breast due to cancer or infection.)

[Emphasis in original]

The Department denied Petitioner's request because it contends that she does not meet the Schnur criteria. The detail of the denial is found in the Department letter of May 13, 2016. Exhibit # 3. As noted above, Petitioner is 5'11" tall and weighs 206 pounds. Petitioner does not think it fair not to consider other health conditions but, as the Department notes, at page 2, paragraph 2, of Exhibit #3 – if there is not about 800 grams of tissue to be removed there is a question as to whether breast size is causing Petitioner's musculoskeletal issues or conversely, whether the removal such a small amount will do much to alleviate those issues.

Because the request indicates that the amount of tissue being removed is less than the Schnur criteria require, I must uphold the agency's decision.

The petitioner and her provider can submit another prior authorization request that includes the new amounts that will be removed from her breasts or a better medical documentation and explanation as to why the request meets Medicaid payment criteria. If this is denied, she can file a new appeal.

CONCLUSIONS OF LAW

The requested bilateral breast reduction prior authorization request does not meet the standards necessary for Medicaid payment.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of July, 2016

\s _____
David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 22, 2016.

Division of Health Care Access and Accountability